IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 433 (S/B) of 2003

1. Commissioner of Income Tax,
   Income Tax Officer, Dehradun
2. Union of India/through
   Chief Commissioner of Income Tax, Dehradun

... Petitioners

Vs

1. Smt Prem Arora W/o K.K. Arora,
   R/o 136, Rajpura Road, Dehradun
2. Central Administrative Tribunal (CAT) Allahabad

... Respondents

Dated: May 23, 2006

Sri Pitamber Maulekhi, learned standing counsel for the Revenue/petitioners
Sri Narayan Dutt, learned counsel for Respondent No. 1

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

By means of this writ petition, the petitioners have prayed for writ of certiorari quashing the impugned order dated 3.9.2002 passed by Respondents No. 2 in Original Application No. 31 of 2002, Smt Prem Arora Vs. Union of India and another contained in Annexure No. 1 to the writ petition.

2. Brief facts of the case giving rise to the petition are that the Respondent No. 1 joined the Income Tax Department in the year 1978 as a Stenographer. By order dated 4.7.2001, the Respondent No. 1 was included in the panel of selected candidates for promotion as Income Tax Inspector and her name was shown at Sl. No. 44. By order dated 4.7.2001, the Respondent No. 1 was posted as Inspector of Income Tax, Dehradun where she was working at the time of filing of the original application. However, by orders dated 27.4.2002 and 30.4.2002

issued by CCIT (CCA Kanpur), the Respondent No. 1 was reverted from the post of Inspector of Income Tax to her erstwhile post of Stenographer. Being aggrieved by the said orders, the Respondent No. 1 filed an Original Application No. 12 of 2002. The said O.A. was allowed by the Tribunal on 7.5.2002 with the following direction:-

> "*The O.A. is accordingly allowed. The impugned orders dated 30.04.2002 and 27.4.2002 passed by CCIT (CCA Kanpur) are quashed. The applicant shall be entitled to continue as Inspector of Income Tax. However, it shall be open to the respondents to pass fresh order in accordance with law. Copy of this order shall be given 24 hours."*

3. In pursuance of the aforesaid order, the Respondent No.1 was served with a show cause notice dated 4/5.6.2002. in response to the aforesaid show cause notice, the Respondent No. 1 made an application on 12.6.2002 and demanded certain papers which are as under:-

a) *A copy of eligible candidates selected for Income Tax Inspector for promotion from Stenographer Cadre.*
b) *A copy of decision of Hon'ble High Court, Allahabad in Writ Petition No. 46442 of 2002 in the case of Arvind Kumar Trivedi and others Vs. Union of India and others.*
c) *A copy of instructions from the Broad regarding reduction of vacancies.*
d) *A copy of the letter regarding Ration of 3:1 between M.S. and Stenographer Cadre.*

4. However, the aforesaid papers/documents were not supplied to Respondent No. 1 by the petitioners. On 27.8.2002, the Petitioner No. 1 passed an order which was impugned before the Tribunal in O.A. No. 31 of 2002 about the non-supply of the necessary documents and it was observed by Petitioner No. 1 as under:-

> *"The list of UR category of stenographer from seniority side had already been furnished to Smt.*

Prem Arora along with the show cause notice dated 5.6.2002. The copy of instructions from the Board regarding reduction of vacancies is not considered relevant to the case. The number of vacancies is circulated by the CCIT and he found that excessive officials were promoted as Inspector against non-existent vacancies. Similarly, the copy of letter regarding ration 3:1 between Ministerial Cadre and Stenographer Cadre is not relevant at this stage, neither is the decision of Hon'ble Court of Allahabad in writ petition No. 46442 of 2000 in the case of Arvind Kumar Trivedi and others. In any case, copies of the Court judgments are not required to be supplied by the Department."-

5. Being aggrieved by the aforesaid order dated 27.8.2002, the Respondent No. 1 preferred an another original application No. 31 of 2002. The Tribunal after considering the entire material available on record vide its order dated 3.9.2002 allowed the original application filed by the Respondent No. 1/ applicant and quashed the order dated 27.8.2002 and directed that the Respondent No. 2 shall be entitled to continue as Inspector of Income Tax at Dehradun. Feeling aggrieved, the petitioners have come up in the writ petition.

6. We have heard learned counsel for the parties and perused the entire material available on record.

7. The Tribunal has rightly recorded a finding that the list of UR category of Stenographer were not supplied to the Respondent No. 1 and this fact was clear from the show cause notice issued by the petitioners itself. Since the relevant documents were not provided to the Respondent No. 1 and there was no proper justification in the rejection order of documents, the Tribunal has rightly held the view taken by the Petitioner No.1/Respondent No. 2 does not appear to be correct because if the documents were denied to the

applicant/Respondent No. 1, it would be difficult for her to reply the show cause notice. Hence, the Tribunal rightly held that the opportunity for satisfying the principles of justice to Respondent No. 1 was denied. Accordingly, the learned Tribunal quashed the order dated 27.8.2002 and allowed the application of the applicant/Respondent No. 1.

8. We do not find any infirmity or illegality in the impugned judgment. The finding recorded by the Tribunal are the findings of fact and do not call for any interference by this Court in exercise of powers under Article 227 of Constitution of India.

9. Hence, the writ petition is devoid of merit and is hereby dismissed. No order as to costs.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

Rajeev Dang